

JUDGE MA. MONINA S. MISAJON, MUNICIPAL TRIAL COURT, SAN JOSE, ANTIQUE, COMPLAINANT, VS. CLERK OF COURT LAGRIMAS A. FERANIL, RESPONDENT.

A.M. No. P-02-1565. October 18, 2004

Ponente: YNARES-SATIAGO, J.

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YNARES-SATIAGO, J.:

These are three consolidated administrative matters which involved charges and counter-charges between and among the same parties.[1]

In A.M. No. MTJ-02-1408, Clerk of Court II Lagrimas A. Feranil of the Municipal Trial Court of San Jose, Antique charged Presiding Judge Ma. Monina S. Misajon with Gross Ignorance of the Law and Abuse of Power. She averred that, ever since she testified against respondent judge in two administrative complaints, the latter has displayed hostility towards her. Respondent judge gave her a performance rating of “Satisfactory”[2] and refused to sign her Daily Time Records for January 1998[3] and August 1999.[4] Respondent judge also surreptitiously caused the preparation of a derogatory letter requesting for her immediate transfer and instigated court employees Merlyn Villavert, Jingkey Nolasco and Elizabeth Banusing to sign and file the same with the Office of the Chief Justice and the OCA.[5] Further, respondent judge, on several occasions, humiliated and harassed her in front of court personnel, litigants and the public.[6]

In her Comment,[7] respondent judge countered that it was complainant who displayed “arrogance and insolence” by ignoring her verbal instructions and refusing to perform her duties. Respondent avers that she gave complainant a “Satisfactory” rating because the latter neglected her duties as Clerk of Court by failing to calendar cases or attend court sessions; and failing to keep a record of cases submitted for decision or to keep abreast of the status of the cases.

Respondent also learned that complainant also offered the Provincial Prosecutor money in exchange for the dismissal of a criminal case. Complainant also demanded one month’s pay from Merlyn Villavert for helping her get employed as court stenographer.[8] On account of these, respondent decided not to delegate the ex parte hearing of cases to complainant, which caused the latter to bear a grudge against her. On one occasion, when respondent judge asked complainant about irregularities in the docket numbers of cases, the latter insulted and shouted at her in front of court personnel and litigants.

Additionally, respondent alleges that complainant allowed the process server of the Municipal Trial Court to do the work of her husband and son, who were process servers of the Regional Trial Court.

Respondent judge’s averments against complainant were treated as a counter-charge, which was docketed as A.M. No. P-02-1565.

In her Rejoinder, complainant refuted respondent judge’s accusations and alleged that the same were motivated by vengeance. She denied that she demanded one month’s wages from Merlyn Villavert. Anent the ex parte

hearings, she was grateful that the same were not delegated to her as it lessened her workload. She also denied the allegation that the Municipal Trial Court Process Server was utilized to implement the court orders and processes of the Regional Trial Court.

Complainant alleges that respondent was appointed as Sales Counselor of the Equitable Pension Plans and even asked her to be one of her underwriters. She refused to accept her offer, which angered respondent.

Regarding her alleged incompetence, complainant states that an actual inspection of all records of each case would show that it is respondent who neither examines nor initials the case records in her court.

On May 28, 2001,[9] respondent judge filed another administrative complaint, docketed as OCA-IPI No. 01-1241-P, charging Clerk of Court Lagrimas S. Feranil, Process Server William Yglesias and Court Aide Conrado Rafols, Jr. with Gross Misconduct, Dishonesty, Insubordination, Incompetence, Inefficiency and Conduct Prejudicial to the Best Interest of the Service. She alleges that respondent clerk of court and respondent court aide Conrado Rafols, Jr. committed delay in the deposit of court fees with the bank, irregularities in the issuance of official receipts of the court, and tampering with the office logbook of attendance. Respondent clerk of court was often late, on under time or absent. Respondent process server, on the other hand, falsified his daily time records because he was frequently absent from work.

In her Comment dated July 17, 2001, respondent clerk of court denied the accusations against her. She alleged that their office logbook records the accurate account of her whereabouts and that, on the contrary, it is complainant judge who tolerates the act of her favored employees of being out during office hours. Complainant judge even issued a memorandum directing her “not to mark absent” Court Interpreter Jingkey Nolasco and Court Stenographers Merlyn Villavert, Elizabeth Escanillas and Caroline Magno whenever they were out with complainant.

As to her alleged tardiness and absences, respondent explained that she had to attend to her husband who suffered a stroke and was afflicted with Alzheimer’s disease. She, however, emphasized that all her absences and tardiness were reflected in her daily time records.

In his Comment, respondent court aide Conrado Rafols, Jr. denied the charges of Insubordination and Dishonesty, and alleged that his daily time records were duly signed by complainant judge. He was always out of the office because the nature of his job is messengerial, and he serves orders and court processes in the absence of the court’s process server. Sometimes he is sent on errands by his fellow court employees.

Respondent process server likewise denied the charges of Habitual Absenteeism and Insubordination. He claims that he was only absent in 2001 because he developed anxiety and depression due to the tension created by complainant in their office, a condition which was aggravated by the death of his mother.

The Court ordered that the three administrative matters be consolidated and referred to the Executive Judge for investigation, report and recommendation.[10]

Subsequently, respondent judge manifested her willingness to have the case submitted for resolution based on the pleadings filed on the condition that the adverse parties would similarly manifest their conformity; otherwise she would be constrained to present other witnesses and relevant evidence.

After investigation, the Executive Judge submitted her report and recommendations as follows:

In A.M. No. MTJ-02-1408, it was recommended that a fine of P12,000.00 be imposed upon Judge Misajon for Violation of Administrative Circular No. 5, dated October 4, 1988, and for unbecoming conduct in humiliating complainant several times in the presence of court personnel and party-litigants; and that all other charges against

respondent were ordered dismissed.

In A.M. No. P-02-1565, it was recommended that a fine of P15,000.00 be meted on Clerk of Court Feranil for Misconduct due to Inefficiency in the Performance of her Duties, Discourtesy in the Course of Official Duties and Habitual Tardiness.

In A.M. No. OCA-IPI-01-1241-P, it was recommended that a fine of P12,000.00 be imposed on Clerk of Court Feramil for Violation of Administrative Circular No. 3-2000; that a fine of P15,000.00 be imposed on Process Server Yglesias for Inefficiency and Insubordination; and that a fine of P21,000.00 be imposed upon Court Aide Rafols for Dishonesty.

We agree with the findings and recommendations of the Investigating Judge.

Judge Misajon has the prerogative to gauge the performance of her clerk of court. The reasons for the “Satisfactory” rating she gave to Feranil can be gleaned from the various memoranda and orders which contains in detail the latter’s infractions and omissions. This observation of Judge Misajon is shared by the other first-level judges in Antique who, in a letter to the Court Administrator, stated that the rift between Judge Misajon and her Clerk of Court disrupted the effective administration of justice in the Municipal Trial Court of San Jose, Antique, for which reason they requested for the transfer of said Clerk to the 2nd Municipal Circuit Trial Court.[11]

Undeniably, the bitterness of the dispute between the feuding parties left bruised egos and wounded feelings in its wake. Still, the escalation of such a conflict could have been avoided had Judge Misajon acted with that degree of equanimity demanded of her stature. As a member of the Bench, she should have adhered to the standard of behavior expected of being a “cerebral” individual who deliberately holds in check the tug and pull of purely personal preferences and prejudices which she shares with the rest of her fellow mortals.[12]

Judge Misajon humiliated complainant in the presence of other court personnel, the parties or the public. All judges should always observe courtesy and civility.[13] They should be temperate, patient and courteous, both in conduct and in language.[14] Indeed, Judge Misajon can hold her colleagues in the Bench and her staff to the efficient performance of their duties without being offensive in her speech, remembering always that courtesy begets courtesy.

As we mentioned earlier, judges are subject to human limitations. Imbedded in their consciousness is the complex of emotions, habits and convictions. Aware of this actuality, it behooves them to regulate these deflecting forces and not to let them loose, either to their own detriment or to that of the courts they serve. This is the high price they have to pay as occupants of their exalted positions.[15] (Italics ours)

Moreover, Judge Misajon’s engagement as Sales Counselor/Pension Planner of the Equitable Pension Plans violates Administrative Circular No. 5 dated October 4, 1988, which prohibits all employees and officials of the Judiciary from being commissioned as insurance agents or from any such related activities and “to immediately desist if presently engaged thereat” because “the entire time of the Judiciary officials and employees must be devoted to government service to ensure efficient and speedy administration of justice.”

Indeed, judges have heavy responsibilities.[16] They are mandated to regulate their extrajudicial activities in such manner that would not interfere with or affect adversely their judicial functions.[17] Rules 5.02 and 5.03 of the Code of Judicial Conduct state:

RULE 5.02

A judge shall refrain from financial and business dealings that tend to reflect adversely on the court’s impartiality, interfere with the proper performance of judicial activities or increase involvement with lawyers or persons likely to come before the court. A judge should so manage investments and other financial interests

as to minimize the number of cases giving grounds for disqualification.

RULE 5.03

Subject to the provisions of the preceding rule, a judge may hold and manage investments but should not serve as an officer, director, manager, advisor, or employee of any business except as director of a family business of the judge.

The Revised Rules of Court, as amended, classifies administrative charges as serious, less serious or light. The misconduct of respondent is classified under Section 9, paragraphs 4 and 5 of Rule 140 of the Revised Rules of Court, as amended, as a less serious offense punishable by any of the sanctions enumerated in Section 11 (B) of the same Rule, which provides that:

SEC. 11. Sanctions. – x x x

B. If the respondent is guilty of a less serious charge, any of the following sanctions shall be imposed:

- Suspension from office without salary and other benefits for not less than one (1) nor more than three (3) months; or
- A fine of more than P10,000.00 but not exceeding P20,000.00.

Judge Misajon is, furthermore, liable for her unbecoming conduct which is classified as a light offense under Section 10 (1) of Rule 140 and is punished under Section 11 (C) of the same Rule with –

- A fine of not less than P1,000.00 but not exceeding P10,000.00 and/or;
- Censure;
- Reprimand;
- Admonition with warning

Therefore, in addition to the fine of P12,000.00 imposed on Judge Misajon for simple misconduct, she should also be ordered to pay a fine of P8,000.00 for unbecoming conduct.

On the other hand, Clerk of Court Feranil should also be held liable for uttering scurrilous words towards Judge Misajon in front of parties-litigants and court personnel. According to an eyewitness, Feranil pointed a dirty finger at Judge Misajon, calling her abusive and oppressive. Judge Misajon ignored the outburst and returned to her chambers because she had a visitor at that time.

Government service is people-oriented.[18] Patience is an essential part of dispensing justice and courtesy is a mark of culture and good breeding.[19] Belligerent behavior has no place in government service where personnel are enjoined to act with self-restraint and civility at all times even when confronted with rudeness and insolence.[20]

It also appears that Feranil was guilty of inefficiency and incompetence in the performance of her duties. These are shown in the various memoranda and orders issued by Judge Misajon, the affidavits of her co-employees,[21] as well as the Position Paper submitted by the Judge.[22] Along the same vein, mute but eloquent testimonials to Feranil's habitual absenteeism and tardiness are shown by her daily time records,[23] which are signed by Judge Misajon.

The gravity of Feranil's offenses in relation to the importance of her position in the administration of justice calls for severe sanctions. The crux thereof goes into the very core of her duties and responsibilities.

The policy to be adopted for the proper imposition of sanctions for truancy and unpunctuality in the Civil Service is clearly spelled out by Section II of Administrative Circular No. 2-99 entitled “Strict Observance Of Working Hours And Disciplinary Action for Absenteeism And Tardiness,” thus:

II

Absenteeism and tardiness, even if such do not qualify as “habitual” or “frequent” under Civil Service Commission Memorandum Circular No. 04, Series of 1991, shall be dealt with severely, and any falsification of daily time records to cover up for such absenteeism and/or tardiness shall constitute gross dishonesty or serious misconduct.

Accordingly, we adopt the recommended fine of P15,000.00 imposed on Clerk of Court Feranil.

As regards the third administrative matter, Feranil admitted that there was delay in the deposit of her collections but claimed that the same was not deliberate.

The practice runs counter to Section 1, Rule 141 of the Revised Rules of Court, which states:

SEC. 1. Payment of fees. – Upon the filing of the pleading or other application which initiates an action or proceeding, the fees therefore shall be paid in full.

With regard to the collection and deposit of court fiduciary funds, Section B (4) of SC Circular No. 50-95 mandates that –

(4) All collections from bail bonds, rental deposits, and other fiduciary funds shall be deposited within twenty-four (24) hours by the Clerk of Court concerned upon receipt thereof with the Land Bank of the Philippines.

Administrative Circular No. 3-2000 commands that all fiduciary collections shall be deposited immediately by the Clerk of Court concerned, upon receipt thereof, with an authorized government depository bank. More explicitly, Title II, paragraph A in relation to sub-paragraph 1 and 3 (c) of said Circular, which designated the Land Bank as the authorized government depository of the JDF, states:

- Duty of the Clerks of Court, Officers-in-Charge or Accountable officers. – The Clerks of Court, Officers-in-Charge, or their accountable duly authorized representatives designated by them in writing, who must be accountable officers, shall receive the Judiciary Development Fund collections, issue the proper receipt therefore, maintain a separate cash book properly marked . . . deposit such collections in the manner herein prescribed and render the proper Monthly Report of Collections for said Fund.

3.

Systems and Procedures:

x x x x x x x x

c.

In the RTC, SDC, MeTC, MTCC, MTC, and SCC. – The daily collections for the Fund in these courts shall be deposited every day with the local or nearest LBP branch “For the account of the Judiciary Development Fund, Supreme Court, Manila – Savings Account No. 0591-0116-34; or if depositing daily is not possible, deposits of the Fund shall be every second and third Fridays and at the end of every month, provided, however, that whenever collections for the Fund reach P500.00, the same shall be deposited immediately even before the period above-indicated.

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d.

Rendition of Monthly Report. – Separate “Monthly Report of Collections” shall be regularly prepared for the Judiciary Development Fund, which shall be submitted to the Chief Accountant, FMO, OCA, copy furnished the FMBO, Supreme Court, the Fiscal Monitoring Division within ten (10) days after the end of every month. Duplicate copies of the official receipts issued during such month covered and validated copy of the Deposit Slips should likewise be submitted. Deposit slips that are not machine validated shall not be considered as deposits.

The aggregate total of the Deposit Slips for any particular month should always be equal to and tally with, the total collections for that month as reflected in the Monthly Report of Collections and Deposits, and Cash Book. [24]

Clerks of Court are officers of the law who perform vital functions in the prompt and sound administration of justice.[25] Their office is the hub of adjudicative and administrative orders, processes and concerns.[26] They perform a delicate function as designated custodians of the court’s funds, revenues, records, properties and premises.[27] As such, they generally are also the treasurer, accountant, guard and physical plant manager thereof.[28] They are liable for any loss, shortage, destruction or impairment of such funds and property.[29]

It is the duty of clerks of court to perform their responsibilities faithfully, so that they can fully comply with the circulars on deposits of collections.[30] They are reminded to deposit immediately, with authorized government depositaries, the various funds they have collected because they are not authorized to keep those funds in their custody.[31] The unwarranted failure to fulfill these responsibilities deserves administrative sanction and not even the full payment of the collection shortages will exempt the accountable officer from liability.[32]

The daily time records of Feranil, Yglesias and Rafols[33] were duly signed by their respective supervisors. It further appears from the list of alleged absences, undertime and falsifications of said respondents that although there were no entries in some dates in the logbook in the names of respondents, their daily time records had complete entries. [34]

In *Artuz v. Court of Appeals*,[35] it was held:

. . . the Logbook is used as mere locator for those employees who now and then are required to render service or [are] sent on official business outside the office premises, or to record events or unusual happenings in the office, unless otherwise specified or required in an office memorandum or circular . . . Clearly, the employee concerned certifies or attests to the truthfulness of the entries made in the DTR. Moreover, the person in charge verifies the entries as to the prescribed hours. No such certification or attestation and verification are required in a Logbook.

x x x x x x x x

. . . We are not convinced that the non-signing in the Logbook by petitioner Artuz alone is substantial evidence considering that we have shown in the above discussion that it is not “the best evidence to prove attendance of an employee,” unlike the questioned DTRs that were duly certified by the employee concerned, verified by his immediate supervisor and authenticated by the head of the regional office.

Suffice it to state in this regard that as the best evidence to prove attendance in office, the said daily time records, duly signed by them and duly certified by their immediate superiors, leave Judge Misajon’s charges of falsification with no leg to stand on.

There is, however, basis to hold respondent Process Server William Yglesias culpable for habitual absenteeism. Judge Misajon submitted well-documented proof that Yglesias was continuously absent from office for the period

1997 to 2001 and filed his application for leave as well as his daily time records which resulted in the withholding of his salaries. In fact, the OCA repeatedly required him to explain these absences.[36] Yglesias' excuse that he was suffering from anxiety and depression over his perceived harassment and persecution by Judge Misajon cannot be made to justify such absences which disrupted the smooth flow of the court's daily business.

It also appears from the record that despite a directive[37] from the Presiding Judge requiring him to submit his Itinerary of Travel in serving court processes, there is no showing that Yglesias complied. While it may be true that the latter's work requires him to be out of the office to serve court processes, this does not prevent Judge Misajon from monitoring the activities of her staff to maintain the efficient operation of the court. Needless to state, Yglesias' repeated disregard of the Order constitutes Insubordination. For such infractions, we find the fine imposed by the Investigator commensurate to his misdeed.

As to the charge of Dishonesty against Court Aide Conrado A. Rafols Jr., said respondent admitted issuing the Official Receipts using the initials of Clerk of Court Feranil, but claims that he did so with no intention to defraud the office or any party. This will not, however, absolve him from liability.

WHEREFORE, in view of the foregoing, judgment is hereby rendered:

(1) In A.M. No. MTJ-02-1408, finding Judge Ma. Monina S. Misajon GUILTY of Simple Misconduct for which she is fined the amount of P12,000.00; and guilty of conduct unbecoming an officer of the court, for which she is FINED the amount of P8,000.00;

(2) In A.M. No. P-02-1565, finding Clerk of Court Lagrimas A. Feranil GUILTY of Inefficiency in the Performance of Her Official Duties, Habitual Tardiness and Discourtesy in the Course of Official Duties, and imposing a FINE in the amount of P15,000.00;

(3) In OCA-IPI No. 01-1241-P, finding Clerk of Court Lagrimas A. Feranil GUILTY of Violation of Administrative Circular No. 3-2000 dated June 15, 2000 and imposing a FINE in the amount of P12,000.00; finding Process Server William Yglesias GUILTY of Absenteeism, Inefficiency and Insubordination, and imposing a FINE in the amount of P15,000.00; and finding Court Aide Conrado A. Rafols, Jr. GUILTY of Dishonesty, and imposing a FINE in the amount of P21,000.00.

All respondents are STERNLY WARNED that the commission of the same or similar offenses will be dealt with more severely.

SO ORDERED.

Davide, Jr., C.J. (Chairman), Quisumbing, and Carpio, JJ., concur.
Azcuna, J., on leave.

[1] Rollo, Vol. II, p. 267.

[2] Rollo, Vol. I, pp. 48-50.

[3] Id., p. 51.

[4] Id., p. 52.

[5] Id., p. 71.

[6] Id., pp. 83-88.

[7] Id., p. 233.

- [8] Id., p. 249.
- [9] Rollo, Vol. II, p. 1.
- [10] Id., pp. 381-382.
- [11] Exhibit 11-FF and series.
- [12] Royeca v. Animas, 162 Phil. 651 [1976], citing Azucena v. Muñoz, 144 Phil. 463 [1970].
- [13] Retuya v. Equipilag, A.M. No. 1431-MJ, 16 July 1979, 91 SCRA 416.
- [14] Abarquez v. Rebosura, 349 Phil. 24 [1998], citing Delgra v. Gonzales, G.R. No. L-24981, 29 May 1981, 31 SCRA 237; Ruiz v. Bringas, 386 Phil. 256 [2000].
- [15] In The Matter Of The Alleged Improper Conduct Of Sandiganbayan Associate Justice Anacleto D. Badoy, Jr. Taking An Ambulance But Proceeding To The GMA TV Station For an Interview Instead Of Proceeding Forthwith To the Hospital, A.M. Nos. 01-12-01-SC and SB-02-10-J, 16 January 2003.
- [16] Court Administrator v. Estacion, A.M. No. RTJ-87-104, 11 January 1990, 181 SCRA 33.
- [17] Raboca v. Pantanosas, 315 Phil. 292 [1995].
- [18] De Luna v. Ricon, 320 Phil. 46 [1995].
- [19] Pineda E.L., Legal and Judicial Ethics, pp. 354-355 [1995].
- [20] Quiroz v. Orfila, 338 Phil. 51 [1997].
- [21] Exhibits 31-33, 37, 39.
- [22] Exhibit 11 and series.
- [23] Exhibits 14-28.
- [24] Emphasis ours.
- [25] Reyes-Domingo v. Morales, A.M. No. P-99-1285, 4 October 2000, 342 SCRA 6; Escañan v. Monterola, A.M. No. P-99-1347, 6 February 2001, 351 SCRA 228.
- [26] Solidbank v. Capoon, 351 Phil. 936 (1998).
- [27] § B, Chapter I, 2002 Revised Manual for Clerks of Court, p. 4; OCA v. Marcelo, A.M. No. P-00-1415-MeTC, 416 Phil. 356 (2001).
- [28] § B, Chapter I, 2002 Revised Manual for Clerks of Court, p. 4.
- [29] Nones v. Ormita, A.M. No. P-01-1532, 9 October 2002, 390 SCRA 519, citing OCA v. Bawalan, supra.
- [30] Re: Financial Audit Conducted on the Book of Accounts of Clerk of Court Pacita T. Sendin, MTC, Solano, Nueva Vizcaya, A.M. No. 01-119-MTC, 16 January 2002.
- [31] OCA v. Galo, 373 Phil. 483 (1999); Re: Report on the Judicial and Financial Audit of RTC – Branch 4, Panabo, Davao del Norte, 351 Phil. 1 (1998); Ferriols v. Hiam, A.M. No. P-90-414, 9 August 1993, 225 SCRA 206.
- [32] Re: Withholding of Other Emoluments of the following Clerks of Court: Elsie R. Remoroza of the Municipal Trial Court (MTC) of Mauban, Quezon; Elena P. Reformado, of the MTC OF Guinayangan, Quezon; Eugenio

Sto. Tomas of the MTC of Cabuyao, Laguna; Maura D. Campano, of the MTC of San Jose, Occidental Mindoro; Eleanor D. Flores, of the Municipal Circuit Trial Court (MCTC) of Taytay, Palawan; and Jesusa P. Benipayo of the MCTC of Ligao, Albay, A.M. No. 01-4-133-MTC, 26 August 2003, citing Re: Report of Regional Coordinator Felipe B. Kalalo on Alleged Anomalies Involving JDF Collections in MTCC, Angeles City, and MCTC, Minalin, Pampanga, 326 Phil. 703, (1996).; OCA v. Galo, *supra*.

[33] Annex I, J and K, Complainant's Position Paper.

[34] Annexes L, M and N, Complainant's Position Paper.

[35] 417 Phil. 588 [2001].

[36] Annexes R, S, T, Complainant's Position Paper.

[37] Annex Z, Complainant's Position Paper.

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